
United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT.

F. G. MANLEY, A. C. RICE, and THE FIRST NATIONAL BANK OF FAIRBANKS, ALASKA, as Successor in Interest of Said F. G. MANLEY and A. C. RICE, and S. A. BONNIFIELD, Receiver,
Appellants,

vs.

D. H. CASCADEN, GEORGE F. DUNBAR, CHARLES SCOTT, and J. BENNETT,
Appellees.

TRANSCRIPT OF RECORD.

Upon Appeal from the United States District Court for the Territory of Alaska, Fourth Division.

FILED

OCT 14 1911

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F. G. MANLEY, A. C. RICE, and THE FIRST
NATIONAL BANK OF FAIRBANKS, ALASKA,
as Successor in Interest of Said F. G. MANLEY and
A. C. RICE, and S. A. BONNIFIELD, Receiver,

Appellants,

vs.

D. H. CASCADEN, GEORGE F. DUNBAR, CHARLES
SCOTT, and J. BENNETT,

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INDEX OF PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

	Page
Assignment of Errors.....	5
Attorneys of Record, Names and Addresses of..	1
Bond on Appeal.....	18
Citation on Appeal.....	20
Clerk's Certificate to Transcript.....	24
Names and Addresses of Attorneys of Record..	1
Order Allowing Appeal and Fixing Amount of Appeal Bond.....	16
Order Enlarging Time to Docket Cause.....	22
Petition for Appeal.....	14
Praecipe for Transcript of Record.....	1
Stipulation as to Transcript of Record.....	3

[Names and Addresses of Attorneys of Record.]

H. J. MILLER, Fairbanks, Alaska,

F. de JOURNEL, San Francisco, Cal.,

Attorneys for Plaintiff and Respondent.

JOHN L. McGINN, Fairbanks, Alaska,

Attorney for Defendants and Appellants.

*In the District Court for the Territory of Alaska,
Fourth Division.*

No. 165.

D. H. CASCADEN,

Plaintiff,

vs.

GEORGE F. DUNBAR, CHARLES SCOTT, J.
BENNETT, F. G. MANLEY, and A. C.
RICE, and the FIRST NATIONAL BANK
OF FAIRBANKS, ALASKA, and S. A.
BONNIFIELD, Receiver,

Defendants.

Praecipe for Transcript of Record.

To the Clerk of the Above-entitled Court:

YOU WILL PLEASE PREPARE transcript of the record in this cause to be filed in the office of the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, under the appeal heretofore perfected to said Court, and include in said transcript the papers included within the stipulation entered into by and between the plaintiffs and defendants, namely:

Assignment of errors;
 Petition for appeal;
 Order allowing appeal;
 Bond on appeal;
 Citation;
 Admission of service thereon;
 Order extending return day;
 Stipulation, and this
 Praeceptum.

Said transcript to be prepared as required by law and the rules of this Court and the rules of the United States Court of Appeals for the Ninth Circuit, and on file in the office of the Clerk of the said Circuit Court of Appeals at San Francisco, before the 15th day of September, 1911.

JOHN L. McGINN,

Attorney for Defendants Manley, Rice, First National Bank and Bonnifield.

[Endorsed] : No. 165. District Court, Fourth Division, District of Alaska. Cascaden vs. Dunbar et al. Praeceptum for Transcript of Record. Filed in the District Court, Territory of Alaska, 4th Div. Jul. 25, 1911. C. C. Page, Clerk. By G. F. Gates, Deputy. [2*]

*Page number appearing at foot of page of original certified Record.

*In the District Court for the Territory of Alaska,
Fourth Division.*

No. 165.

D. H. CASCADEN,

Plaintiff,

vs.

GEORGE F. DUNBAR, CHARLES SCOTT, J.
BENNETT, F. G. MANLEY, and A. C.
RICE, and the FIRST NATIONAL BANK
OF FAIRBANKS, ALASKA, and S. A.
BONNIFIELD, Receiver,

Defendants.

Stipulation as to Transcript of Record.

IT IS HEREBY STIPULATED AND AGREED
by and between the attorneys for the respective parties that the transcript of the record on appeal taken by the defendants F. G. Manley, A. C. Rice and the First National Bank of Fairbanks, Alaska, and S. A. Bonnifield, shall be made up of the following papers:

- Assignment of errors;
- Petition for appeal;
- Order allowing appeal;
- Bond on appeal;
- Citation;
- Admission of service thereon;
- Order extending return day:

And that it shall not be necessary for the said defendants F. G. Manley, A. C. Rice, The First National Bank of Fairbanks, Alaska, and S. A. Bonnifield, appellants, to send up a transcript of the entire

record, for the reason that the same has already been docketed with the United States Circuit Court of Appeals for the Ninth Circuit, and that the said record fully discloses all the exceptions taken and noted by said appellants upon the hearing of said cause, and that said transcript of record so printed may be used by said defendants Manley, Rice, First National Bank of Fairbanks, Alaska, and S. A. Bonnifield, the same as though they were the original and only appellants in this action.

IT IS FURTHER STIPULATED that the record shall also include this stipulation as well as the praecipe for the transcript. [3]

Dated this —— day of July, 1911.

H. J. MILLER,

Attorneys for Plaintiff.

JOHN L. McGINN,

Attorneys for Defendants G. F. Dunbar, Charles Scott and J. Bennett.

JOHN L. McGINN,

Attorneys for Defendants F. G. Manley, A. C. Rice, First National Bank of Fairbanks, Alaska, and S. A. Bonnifield.

[Endorsed]: No. 165. District Court, Fourth Division, District of Alaska. Cascaden vs. Dunbar et al. Stipulation. Filed in the District Court, Territory of Alaska, 4th Div. Jul. 25, 1911. C. C. Page, Clerk. By G. F. Gates, Deputy. [4]

*In the District Court for the Territory of Alaska,
Fourth Judicial Division.*

No. 165.

D. H. CASCADEN,

Plaintiff,

vs.

GEORGE F. DUNBAR, CHARLES SCOTT, J.
BENNETT, F. G. MANLEY, and A. C.
RICE, and the FIRST NATIONAL BANK
OF FAIRBANKS, ALASKA, and S. A.
BONNIFIELD, Receiver,

Defendants.

Assignment of Errors.

Come now the defendants F. G. Manley and A. C. Rice, the First National Bank of Fairbanks, Alaska, and S. A. Bonnifield, and make the following assignment of errors upon which they rely on this appeal from the decree made by the judge of the above-entitled court in said cause on the 5th day of July, 1910.

I.

The Court erred in refusing to make a conclusion of law as is set forth in paragraph 1 of the conclusions of law requested by the defendants Manley and Rice and the First National Bank of Fairbanks, Alaska, as successor in interest of said Manley and Rice, as follows:

“That the defendants Manley and Rice, by virtue of a deed made and executed upon the 7th day of May, 1904, at Fairbanks, Alaska, by George Fred

Dunbar and Charles Scott to them, as is set forth in paragraph 3 of the Findings of Fact, became the owners of an undivided one-third interest in and to the property mentioned and described in the plaintiff's complaint, and that ever since the said time the said F. G. Manley and A. C. Rice and their successors in interest have been and now are the owners of an undivided one-third interest in and to said properties and of the rents and royalties derived therefrom · that the said Manley and Rice and their successors in interest are now and ever since the gold was extracted from said properties have been entitled to an undivided one-third of all of the gold and gold-dust mined and extracted from said [5] property, and that by reason thereof they are now entitled to one-third of the gold and gold-dust now on deposit with the clerk of this court."

II.

The Court erred in refusing to make a conclusion of law as is set forth in paragraph II of the conclusions of law requested by the defendants Manley and Rice, and the First National Bank of Fairbanks Alaska, as successor in interest of said Manley and Rice, as follows:

"That the First National Bank of Fairbanks, Alaska, as the successors in interest of all the right, title and interest of the said Dunbar in and to the property known as No. 12A below discovery on the first tier, right limit of Cleary Creek, and by virtue of an assignment of all the gold-dust that had been theretofore extracted from said property and which would be thereafter extracted, and which was in the

possession of the various custodians of this court, is entitled now to receive one-sixth ($\frac{1}{6}$) of the money and gold-dust now on deposit with the clerk of this court in the register of this court pursuant to the orders of this Court heretofore made.”

III.

The Court erred in refusing to make a conclusion of law as is set forth in paragraph III of the conclusions of law requested by the defendants Manley and Rice and the First National Bank of Fairbanks, Alaska, as successor in interest of said Manley and Rice, as follows:

“That the First National Bank of Fairbanks, Alaska, is entitled to receive of the moneys of the said F. G. Manley now on deposit with the clerk of this court, the sum of Eight Thousand (\$8,000.00) Dollars.”

IV.

The Court erred in refusing to make a conclusion of law as is set forth in paragraph IV of the conclusions of law requested by the defendants Manley and Rice and the First National Bank of [6] Fairbanks, Alaska, as successor in interest of said Manley and Rice, as follows:

“That by virtue of the mortgages given by the defendant G. F. Dunbar to E. T. Barnette and S. A. Bonnifield, and which were subsequently assigned to said First National Bank of Fairbanks, Alaska, said First National Bank is entitled to all of the money and gold-dust now in the register of this court in this cause, according to the interest of the said Dunbar in said property.”

V.

The Court erred in refusing to make a conclusion of law as is set forth in paragraph V of the conclusions of law requested by the defendants Manley and Rice and the First National Bank of Fairbanks, Alaska, as successor in interest of said Manley and Rice, as follows:

“That said First National Bank of Fairbanks, Alaska, as the assignee of all the right, title and interest of the said G. F. Dunbar in and to the money and gold-dust now on deposit with the clerk of this court, is entitled to his proportion thereof.”

VI.

The Court erred in refusing to make a conclusion of law as set forth in paragraph VI of the conclusions of law requested by the defendants Manley and Rice and the First National Bank of Fairbanks, Alaska, as successor in interest of said Manley and Rice, as follows:

“That if the Court finds that the conveyance of the defendant Rice to S. A. Bonnifield, and the mortgages given and assigned to said S. A. Bonnifield by the defendant Dunbar on the 18th day of September, 1906, and the assignment by him of the gold-dust then in the possession of the said S. A. Bonnifield as custodian, were void by reason of the relationship then existing between the said S. A. Bonnifield as custodian and the parties to this action, that then and in that event the said First National Bank, as the [7] successor in interest of the said S. A. Bonnifield, is now entitled to the proceeds derived from the interest of the said Dunbar in said properties and the interest

originally held by the said Rice from the date of his, the said Bonnifield's, discharge as custodian."

VII.

The Court erred in refusing to make a conclusion of law as is set forth in paragraph VII of the conclusions of law requested by the defendants Manley and Rice and the First National Bank of Fairbanks, Alaska, as successor in interest of said Manley and Rice, as follows:

"That the said First National Bank of Fairbanks, Alaska, is entitled to receive of the moneys now on deposit with the clerk of this court one-sixth ($\frac{1}{6}$) thereof as the successor in interest of the defendant Dunbar, one-sixth ($\frac{1}{6}$) thereof as the successor in interest of the defendant Rice, and the sum of Eight Thousand (\$8,000) Dollars of the moneys belonging to the defendant Manley."

VIII.

The Court erred in making and filing a conclusion of law as is set forth in paragraph I of the conclusions of law made and filed in the above-entitled cause, and which is as follows, to wit:

"That the Circuit Court of Appeals has determined that at the time the said Dunbar and Scott executed the deed to said Manley and Rice as set forth in Finding 3, the said Dunbar and Scott owned only an undivided one-half interest in the property therein mentioned; that said deed only operated to convey to said Manley and Rice an undivided one-sixth interest in said property."

IX.

The Court erred in making and filing a conclusion of law as is set forth in paragraph II of the conclusions of law made and filed in the above-entitled cause, and which is as follows, to wit:

“That the defendants Manley and Rice were only entitled to one-sixth of the royalties mined and extracted from said property prior to the 15th day of September, 1905, and are now only entitled to [8] one-sixth of the royalties and money now on deposit with the clerk of this court.”

X.

The Court erred in making and filing a conclusion of law as is set forth in paragraph III of the conclusions of law made and filed in the above-entitled cause, and which is as follows, to wit:

“That the defendant Dunbar at the time of the execution of the note and mortgage and the assignment of the gold-dust to E. T. Barnette was the owner of an undivided one-third interest in and to said bench claim No. 12A below discovery on Cleary Creek, and that the said First National Bank at Fairbanks, is now entitled to one-third of the money and gold-dust now on deposit with the clerk of this court.”

XI.

The Court erred in making and filing a conclusion of law as is set forth in paragraph V of the conclusions of law made and filed in the above-entitled cause, and which is as follows, to wit:

“That the plaintiff is entitled to a judgment for one-half of the royalties mined and extracted from said properties since September, 1904, up to the time

of the selection and appointment of the said Donnelly as receiver, which said royalty amounts to the sum of Fifty-seven Thousand Eight Hundred Sixty-five and $50/100$ (\$57,865.50) Dollars; the amount of judgment which plaintiff is entitled to for and account of said royalties, being the sum of Twenty-eight Thousand Nine Hundred and Thirty-two and $75/100$ (\$28,932.75) Dollars.”

XII.

The Court erred in making and filing a conclusion of law as is set forth in paragraph VII of the conclusions of law made and filed in the above-entitled cause, and which is as follows, to wit:

“That of said sum of Twenty-eight Thousand Nine Hundred Thirty-two and $75/100$ (\$28,832.75) Dollars for which the plaintiff is entitled to a judgment as aforesaid, the plaintiff is entitled to a [9] judgment against the defendant Manley for the sum of Four Thousand Eight Hundred Twenty-two and $13/100$ (\$4,822.13) Dollars, against the defendants Dunbar and Scott for the sum of Nineteen Thousand Two Hundred Eighty-eight and $50/100$ (\$19,288.50) Dollars.”

XIII.

The Court erred in making and filing a conclusion of law as is set forth in paragraph VIII of the conclusions of law made and filed in the above-entitled cause, and which is as follows, to wit:

“That the plaintiff is entitled to an order directing the clerk of this court to apply, out of the moneys and gold-dust now in his possession, sufficient thereof to satisfy the judgments in favor of the plaintiff and

against the defendants Rice and Manley.

XIV.

The Court erred in making and filing a conclusion of law as is set forth in paragraph IX of the conclusions of law made and filed in the above-entitled cause, and which is as follows, to wit:

“That the mortgage made and executed by the defendant Dunbar to S. A. Bonnifield, and the assignment of the gold-dust to pay the indebtedness due him amounting to the sum of \$10,320, is void and of no effect, for the reason that said Bonnifield at said time in his said capacity of receiver could not accept and receive a mortgage or an assignment of the same.

And that the deed from A. C. Rice to S. A. Bonnifield, and the assignment of the money and gold-dust by the said A. C. Rice to said S. A. Bonnifield, which was then in the possession of said Bonnifield as trustee or receiver, is likewise void.”

XV.

The Court erred in making and filing a conclusion of law as is set forth in paragraph X of the conclusions of law made and filed in the above-entitled cause, and which is as follows, to wit:

“That the plaintiff is entitled to interest on his said [10] judgment of \$28,932.75 from the 15 day of Aug., 1905, until the same is paid, at the rate of eight (8%) per cent per annum, the same to be paid by defendants in proportion to the respective judgments against them.”

XVI.

The Court erred in making and filing a conclusion

of law as is set forth in paragraph XI of the conclusions of law made and filed in the above-entitled cause, and which is as follows, to wit:

“That plaintiff is entitled to recover his costs and disbursements herein against the defendants and each of them.”

WHEREFORE said defendants pray that the judgment and decree of said court be vacated and set aside and that judgment be entered in accordance with the Findings of Fact, and that said defendants have such other and further relief as in law they are entitled to receive.

JOHN L. McGINN,

Attorney for Defendants Manley and Rice, The
First National Bank, Successor in Interest of
Manley and Rice and S. A. Bonfield.

Service of the foregoing assignment of errors admitted this 29th day of June, 1911.

H. J. MILLER & de JOURNAL,

Attorneys for Plaintiff D. H. Cascaden.

JOHN L. McGINN,

Attorney for Defendants G. F. Dunbar, Charles
Scott and J. Bennett.

[Endorsed]: No. 165. In the District Court for the Territory of Alaska, Fourth Division. D. H. Cascaden, Plaintiff, vs. G. F. Dunbar et al., Defendants. Assignment of Errors. Filed in the District Court, Territory of Alaska, 4th Div. Jun. 29, 1911. C. C. Page, Clerk. By H. C. Green, Deputy. [11]

*In the District Court of the Territory of Alaska,
Fourth Judicial Division.*

No. 165.

D. H. CASCADEN,

Plaintiff,

vs.

GEORGE F. DUNBAR, CHARLES SCOTT, J.
BENNET, F. G. MANLEY and A. C. RICE
and THE FIRST NATIONAL BANK of
FAIRBANKS, ALASKA, and S. A. BONNI-
FIELD, Receiver.

Defendants.

Petition for Appeal.

Come now the above-named defendants F. G. Manley and A. C. Rice, and the First National Bank of Fairbanks, Alaska, successor in interest of said Manley and Rice, and S. A. Bonnifield, who, conceiving themselves aggrieved by the judgment and decree of this Court made and entered in said cause on the 5th day of July, 1910, in the above-entitled proceeding, do hereby appeal from said judgment and decree to the United States Circuit Court of Appeals for the Ninth Circuit, for the reasons specified in the Assignment of Errors filed herewith, and appellants pray that their appeal be allowed and that a transcript of the record, proceedings and papers upon which said judgment and decree was made, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Circuit.

Said appellants further pray that an order be

made fixing the amount of security which appellants shall give and furnish upon said appeal, and that upon the giving of such security all further proceedings in this court shall be suspended and stayed until the determination of said Appeal by the United States Circuit Court of Appeals for the Ninth Circuit. And your petitioners will ever pray, etc.

JOHN L. McGINN,

Attorney for Defendants Manley and Rice, First National Bank of Fairbanks, and S. A. Bonni-field. [12]

Service of the foregoing petition is hereby accepted this 29th day of June, 1911.

H. J. MILLER & de JOURNEL,
Attorney for Plaintiff D. H. Cascaden.

JOHN L. McGINN,

Attorney for Defendants G. F. Dunbar, Charles Scott and J. Bennett.

[Endorsed]: No. 165. In the District Court for the Territory of Alaska, Fourth Division. D. H. Cascaden, Plaintiff, vs. G. F. Dunbar et al., Defendant. Petition for Appeal. Filed in the District Court, Territory of Alaska, 4th Div. Jun. 29, 1911. C. C. Page, Clerk. By H. C. Green, Deputy. [13]

*In the District Court of the Territory of Alaska,
Fourth Judicial Division.*

No. 165.

D. H. CASCADEN,

Plaintiff,

vs.

GEORGE F. DUNBAR, CHARLES SCOTT, J.
BENNETT, F. G. MANLEY and A. C.
RICE, and THE FIRST NATIONAL
BANK OF FAIRBANKS, ALASKA, and S.
A. BONNIFIELD, Receiver,

Defendants.

**Order Allowing Appeal and Fixing Amount of
Appeal Bond.**

Now, on this 29th day of June, 1911, the same being one of the judicial days of the regular term of this court held at Fairbanks, Alaska, Fourth Division, this cause came on to be heard upon the petition of defendants F. G. Manley, A. C. Rice, and The First National Bank of Fairbanks, Alaska, successor in interest of said Manley & Rice, and S. A. Bonnifield for an appeal, and the Court being advised in the premises—

IT IS ORDERED that the appeal of the said defendants in said cause to the United States Circuit Court of Appeals for the Ninth Circuit be and the same is hereby allowed, and that a certified transcript of the record, proceedings, judgment, decree, orders and testimony and all other proceedings herein be transferred to the United States Circuit Court of Appeals for the Ninth Circuit.

It is further ordered that the bond on appeal of said defendants be fixed at the sum of One Thousand Dollars, and that the same when given and approved shall act and take effect as a supersedeas bond and also as a bond for costs and damages on appeal.

Done in open Court this 29th day of June, 1911.

PETER D. OVERFIELD,

Judge of said Court.

Entered in Court Journal No. 11, page 248. [14]

Service of the foregoing order admitted this 29th day of June, 1911.

H. J. MILLER & de JOURNAL,

Attorneys for *Paintiff* D. H. Cascaden.

JOHN L. McGINN,

Attorney for Defendants G. F. Dunbar, Charles Scott and J. Bennett.

[Endorsed]: No. 165. In the District Court for the Territory of Alaska, Third Division. D. H. Cascaden, Plaintiff, vs. G. F. Dunbar et al., Defendants. Order Allowing Appeal. Filed in the District Court, Territory of Alaska, 4th Div. Jun. 29, 1911. C. C. Page, Clerk. By H. C. Green, Deputy. [15]

*In the District Court of the Territory of Alaska,
Fourth Judicial Division.*

No. 165.

D. H. CASCADEN,

Plaintiff,

vs.

GEORGE F. DUNBAR, CHARLES SCOTT, J.
BENNETT, F. G. MANLEY, and A. C.
RICE, and THE FIRST NATIONAL
BANK OF FAIRBANKS, ALASKA, and
S. A. BONNIFIELD, Receiver,

Defendants.

Bond on Appeal.

KNOW ALL MEN BY THESE PRESENTS:
That we, F. G. Manley, A. C. Rice, The First
National Bank of Fairbanks, Alaska, and S. A.
Bonnifield, as principals, and R. Wood, and
———, as sureties, are held and firmly bound
unto the plaintiff D. H. Cascaden, in the sum of One
Thousand (\$1,000) dollars, to be paid to the said
plaintiff. For which payment, well and truly to be
made, we bind ourselves and each of us, and our and
each of our heirs, executors and administrators,
jointly and severally, firmly by these presents.

Sealed with our seals and dated this 20th day of
June, 1911.

WHEREAS the above-named defendants F. G.
Manley, A. C. Rice, and the First National Bank of
Fairbanks, Alaska, and S. A. Bonnifield, have ap-
pealed to the United States Circuit Court of Appeals

for the Ninth Circuit to reverse the orders, judgment and decree of the above-entitled court in said cause,

Now, therefore, the conditions of this obligation are such: That if the above-named F. G. Manley, A. C. Rice, The First National Bank of Fairbanks, Alaska, and S. A. Bonnifield shall prosecute said appeal to effect and answer all damages and costs if they fail to make good their plea; then this obligation shall [16] be void; otherwise to remain in full force and virtue.

FIRST NATIONAL BANK,

By R. C. WOOD, Pres., [Seal]

R. C. WOOD, [Seal]

Sureties.

United States of America,

Territory of Alaska,—ss.

We, R. C. Wood, and —————, the sureties to the foregoing bond, being duly sworn, each for himself says: I am a resident of Fairbanks in the Territory of Alaska; I am not a counsellor at law or attorney at law, marshal, deputy marshal, commissioner, clerk of any court, or other officer of any court; that I am worth double the amount specified in the foregoing bond as the penalty thereof over and above all my just debts and liabilities and property exempt from execution.

R. C. WOOD.

Subscribed and sworn to before me this 29th day of June, 1911.

[Notarial Seal]

ARTHUR FRAME,
A Notary Public for Alaska.

Service of the foregoing bond is hereby accepted this 29th day of June, 1911.

H. J. MILLER & de JOURNAL,
Attorneys for Plaintiff D. H. Cascaden.

JOHN L. MCGINN,
Attorney for Defendants G. F. Dunbar, Charles Scott
and J. Bennett.

The foregoing bond is hereby approved.

PETER D. OVERFIELD,
Judge.

[Endorsed]: No. 165. In the District Court for the Territory of Alaska, Fourth Division. D. H. Cascaden, Plaintiff, vs. G. F. Dunbar et al., Defendant. Bond. Filed in the District Court, Territory of Alaska, 4th Div. Jun. 29, 1911. C. C. Page, Clerk. By H. C. Green, Deputy. [17]

*In the District Court of the Territory of Alaska
Fourth Judicial Division.*

No. 165.

D. H. CASCADEN,

Plaintiff,

vs.

GEORGE F. DUNBAR, CHARLES SCOTT, J.
BENNETT, F. G. MANLEY and A. C. RICE,
and THE FIRST NATIONAL BANK OF
FAIRBANKS, ALASKA and S. A. BONNI-
FIELD, Receiver,

Defendants.

Citation on Appeal.

United States of America,
Territory of Alaska,
Fourth Division,—ss.

The President of the United States of America, To
the Above-named Plaintiff D. H. Cascaden, and
to the Defendants G. F. Dunbar, Charles Scott,
and J. Bennett; and to H. J. Miller and F. de
Journel, Attorneys for Plaintiff D. H. Cascaden,
and to John L. McGinn, Attorney for Defend-
ants G. F. Dunbar, Charles Scott and J. Bennett.

You are hereby cited to be and appear in the
United States Circuit Court of Appeals for the Ninth
Circuit to be holden in the city of San Francisco,
State of California, within thirty days from the date
of this writ, pursuant to an order allowing an appeal
made and entered in the above-entitled cause in which
D. H. Cascaden is plaintiff and George F. Dunbar,
Charles Scott, J. Bennett, F. G. Manley, A. C. Rice,
and The First National Bank of Fairbanks, Alaska,
and S. A. Bonnifield, receiver, are defendants, to
shoe cause if any there be, why the judgment and de-
cree made and rendered in said action on the 5th
day of July, 1910, as in said order allowing the appeal
mentioned, should not be corrected, set aside, and
reversed, and why speedy justice should not be
done [18] to the said defendants F. G. Manley, A.
C. Rice and the First National Bank of Fairbanks,
Alaska, and S. A. Bonnifield in that behalf.

Witness the Hon. EDWARD D. WHITE, Chief
Justice of the Supreme Court of the United States of

America, this 29th day of June, 1911, and the year of the Independence of the United States the ———.

PETER D. OVERFIELD,

District Judge.

Service of the foregoing citation is hereby accepted 29th day of June, 1911.

H. J. MILLER and

F. de JOURNEL,

Attorneys for D. H. Cascaden.

JOHN L. MCGINN,

Attorney for Defendants G. F. Dunbar, Charles Scott and J. Bennett. [19]

[Endorsed]: No. 165. In the District Court for the Territory of Alaska, Third Division. D. H. Cascaden, Plaintiff, vs. G. F. Dunbar et al., Defendants. Citation on Appeal. [20]

*In the District Court of the Territory of Alaska
Fourth Judicial Division.*

No. 165.

D. H. CASCADEN,

Plaintiff,

vs.

GEORGE F. DUNBAR, CHARLES SCOTT, J. BENNETT, F. G. MANLEY and A. C. RICE, and THE FIRST NATIONAL BANK OF FAIRBANKS, ALASKA, and S. A. BONNIFIELD, Receiver,

Defendants.

Order Enlarging Time to Docket Cause.

Now, on this 29th day of June, 1911, the same being one of the judicial days of the regular term of this

Court held at Fairbanks in the Territory of Alaska, Fourth Division, the above-entitled cause came on to be heard upon the motion of the attorney for appellants F. G. Manley and A. C. Rice, and the First National Bank of Fairbanks, Alaska, and S. A. Bonnifield for an order extending the time in which to docket said cause and to file the record thereof with the Clerk of the Circuit Court of Appeals for the Ninth Circuit, and for the reason that the same is necessary by reason of the great distance and the slow and uncertain communication between said Town of Fairbanks, Alaska, and the city of San Francisco, California, and the Court upon hearing said motion and being fully advised in the premises, and considering that good cause has been shown for granting the same,

IT IS ORDERED that the time within which said appellant shall docket the said cause on appeal and the return day named in the citation issued by this Court, be enlarged to and including the 25th day of Sept., 1911.

PETER D. OVERFIELD,
Judge of said Court.

Entered in Court Journal No. 11, page 248. [21]

Service of the foregoing order is hereby accepted this 29th day of June, 1911.

H. J. MILLER and
F. de JOURNAL,

Attorneys for Plaintiff, D. H. Cascaden,

JOHN L. McGINN,

Attorney for Defendants G. F. Dunbar, Charles
Scott and J. Bennett. [22]

[Endorsed]: No. 165. In the District Court for the Territory of Alaska, Third Division. D. H. Cascaden, Plaintiff, vs. G. F. Dunbar et al., Defendants. Order Enlarging Time. [23]

*In the District Court for the Territory of Alaska,
Fourth Division.*

No. 165.

D. H. CASCADEN,

Plaintiff,

vs.

GEORGE F. DUNBAR, CHARLES SCOTT, J. BENNETT, F. G. MANLEY and A. C. RICE, and THE FIRST NATIONAL BANK OF FAIRBANKS, ALASKA, and S. A. BONNIFIELD, Receiver,

Defendants.

Clerk's Certificate to Transcript.

United States of America,
Territory of Alaska,
Fourth Division,—ss.

I, C. C. Page, Clerk of the District Court for the Territory of Alaska, Fourth Division, do hereby certify that the foregoing and hereto annexed twenty-four (24) typewritten pages, numbered 1 to 24, inclusive, constitute a full, true and correct copy, and the whole thereof, including endorsements, in accordance with the praecipe of the defendants and appellants on file herein and made a part thereof, wherein D. H. Cascaden is plaintiff and respondent; G. F. Dunbar, Charles Scott and J. Bennett, defendants,

and F. G. Manley, A. C. Rice, First National Bank of Fairbanks, Alaska, and S. A. Bonnifield, Receiver, are defendants and appellants, in Cause No. 165, and that the same is by virtue of the order of appeal and citation issued in said cause and is a return thereof in accordance therewith.

And I do further certify that this transcript was prepared by me in my office, and that the cost of preparation, examination and certificate, amounting to eight dollars and fifteen cents (\$8.15), was paid to me by counsel for the defendants and appellant.

In witness whereof I have hereunto set my hand and the seal of said Court, this 27th day of July, 1911.

[Seal]

C. C. PAGE,

Clerk District Court, Territory of Alaska, Fourth Division.

By H. C. Green,
Deputy. [24]

[Endorsed]: No. 2025. United States Circuit Court of Appeals for the Ninth Circuit. F. G. Manley, A. C. Rice, and The First National Bank of Fairbanks, Alaska, as Successor in Interest of Said F. G. Manley and A. C. Rice, and S. A. Bonnifield, Receiver, Appellants, vs. D. H. Cascaden, George F. Dunbar, Charles Scott, and J. Bennett, Appellees. Transcript of Record. Upon Appeal from the United States District Court for the Territory of Alaska, Fourth Division.

Filed August 23, 1911.

FRANK D. MONCKTON,
Clerk.

By Meredith Sawyer,
Deputy Clerk.